

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**SUSAN D. MARASCALCO, as Executrix for the  
Estate of Elizabeth Ann Deloach**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 4:18-CV-141-DMB-RP**

**ALLSTATE VEHICLE PROPERTY  
INSURANCE COMPANY**

**DEFENDANTS**

**ORDER**

On June 7, 2019, counsel for the Estate of Elizabeth Ann Deloach moved to be substituted for Elizabeth Ann Deloach individually and as Deloach Real Estate, LLC under Federal Rule of Civil Procedure 25. Docket 46. The motion states that Elizabeth Ann Deloach died on March 29, 2019 and explains that an estate has been opened in the Chancery Court of Grenada County, Mississippi, appointing Susan D. Marascalco as the Executrix. *Id.* On June 13, 2019, counsel for Plaintiff submitted a Notice of Consent on behalf of Susan D. Marascalco, evidencing her sworn consent to be substituted as Plaintiff in her capacity as Executrix of the Estate of Elizabeth Ann Deloach. Docket 48. Counsel for Defendant Allstate Vehicle and Property Insurance Company notified the court via email that it does not oppose Plaintiff's request.

Federal Rule of Civil Procedure 25 provides in part: "If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative." Generally "[u]nless the estate of a deceased party has been distributed at the time of the making of the motion for substitution, the 'proper' party for substitution would be either the executor or administrator of the estate of the deceased." *Rowland v. GGNCS Ripley, LLC*, No. 3:13-CV-00011-DMB, 2015

WL 5197565, at \*2 (N.D. Miss. Sept. 4, 2015) (citing *Madison v. Vintage Petroleum, Inc.*, 872 F.Supp. 340, 342 (S.D. Miss.1994) and *Ashley v. Ill. C. Gulf. R. Co.*, 98 F.R.D. 722, 723 (S.D. Miss.1983)).

As a preliminary matter, counsel for Plaintiff filed a Suggestion of Death on April 8, 2019, and the instant motion was “made within 90 days after service of a statement noting the death” as Rule 25 requires. Fed. R. Civ. P. 25(a)(1). Finding that the executrix is the “proper party” under Rule 25, Plaintiff’s request that Susan D. Marascalo, as Executrix for the Estate of Elizabeth Ann Deloach be substituted as Plaintiff in this action is **GRANTED**. The Clerk of Court is directed to change the style on the docket to reflect the substitution, and the parties are directed to observe this change in future filings.

**SO ORDERED**, this the 14th day of June, 2019.

/s/ Roy Percy  
UNITED STATES MAGISTRATE JUDGE